

Appl. No. 10/659,788
Atty. Docket No. 9041M
Amdt. dated February 1, 2005
Reply to Office Action of October 1, 2004
Customer No. 27752

REMARKS

Applicants thank Examiner for consideration given to the present application. Upon entry of the present amendment, Claims 1-23 will be pending in the present application. Claims 1, 7-9, 11, 16, and 17 have been amended. Claims 19-23 has been added.

Applicants thank Examiner for allowing the subject matter of Claims 10 and 18.

IDS

Applicants thank Examiner for pointing out proper IDS practice. Applicants did not intend for Applicants' citation within the specification to act as an IDS submission. Applicants apologize for any confusion. Further, Applicants have submitted an IDS on December 16, 2004, after the first Action.

Specification

The Action states:

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. *Emphasis added.*

"Should be" indicates a preferred range, but does not require that stated number ranges be strictly followed, especially on the low side where space considerations are not a factor. Additionally, 37 C.F.R. §1.72(b) states:

The abstract in an application filed under 35 U.S.C. 111 may not exceed 150 words in length. The purpose of the abstract is to enable the United States Patent and Trademark Office and the public generally to determine quickly from a cursory inspection the nature and gist of the technical disclosure.

Applicants assert that the original Abstract adequately describes the technical disclosure to allow the USPTO and the public to quickly determine the gist thereof. That is, quickly, one knows from reading Applicants' Abstract that the technical disclosure is about a toothbrush head and handle which utilize a releasable threaded engagement. Applicants are reluctant to change the Abstract because of the negative impact it may have on claim

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construction. See *Hill-Rom Co. v. Kinetic Concepts, Inc.*, 209 F.3d 1337, 1341 n.*, 54 USPQ2d 1437, 1140 n.1 (Fed. Cir. 2000).

Rejection Under 35 U.S.C. §112

The Action rejected Claims 7-18 under 35 U.S.C. §112. Particularly, the Action rejected Claims 7, 8, 11, and 16 for use of the phrase "fully engage". Applicants have replaced said phrase with "sufficient engagement". Said amendment is fully supported within the specification (e.g., page 7, line 18).

Claims 9 and 17 were rejected because there is insufficient antecedent basis for "the tab". Applicants have corrected such.

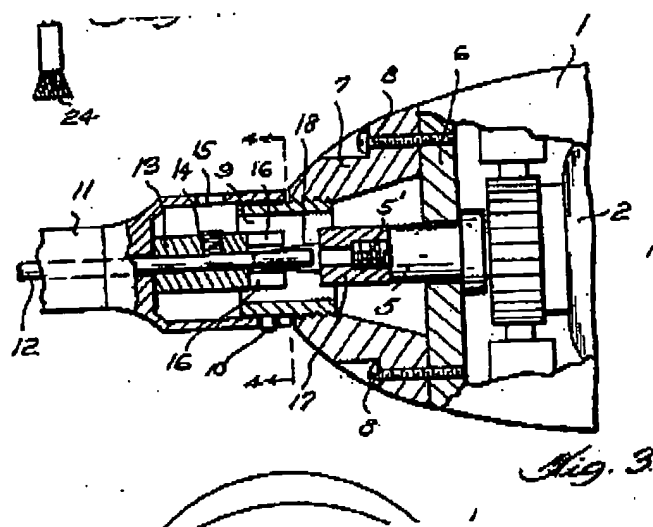
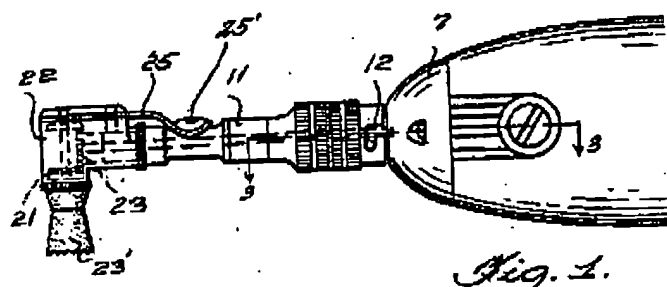
Rejection Under 35 U.S.C. 102(b)

The Action rejected Claims 1, 4, 5, 7, 8, 11, 14, and 16 under 35 U.S.C. §102(b) as being anticipated by *Rogers*, USPN 2,278,095 (herein "*Rogers*"). MPEP §2131 provides:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 10583 (Fed. Cir. 1987). The identical invention must be shown in as complete details as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as by the claim.

Applicants respectfully traverse this rejection because *Rogers* fails to teach every element as claimed by Applicants. Applicants' independent Claims 1 and 11 require that a "first thread and said second thread form a threaded connection that releasably couples said brush head to said handle when one of said handle or said brush head is rotated about said longitudinal axis". *Rogers*, however, discloses a "bayonet slot 12... for receiving the pin 10 so that the handle piece 11 is detachably connected to the casing through means of the sleeve 9" (see *Rogers*' Figs. 1 and 3 below).

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Further, *Rogers* shows threads in Fig. 3 which are not called out. The sleeve 9 is threaded on one end for what appears to be a one-time permanent connection to the cover member 7. The head 22 is certainly not detachably connected via the threads at the end of sleeve 9. Rather, head 22 is detachably connected to the non-threaded portion of sleeve 9 via a bayonet slot 12 and pin 10.

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Even if one considered the sleeve 9 to be part of the head 22 (though it is apparent that *Rogers* never intended such), it is apparent that the head 22 would not be capable of being threaded into or out of the cover member 7. Depending upon the direction of the threads, when either loosening or tightening the head 22, the pin 10 would twist out of the open portion of the bayonet slot 12. Thus, at best, one would be able to thread the head 22 into, but not out of, the cover member 7, or vice versa. Thus, the head 22 would not be able to releasably couple to the cover member 7 even if the sleeve 9 was considered part of the head 22.

Thus, *Rogers* does not disclose a brush head releasably coupled to a handle via a threaded connection. Thus, *Rogers* does not anticipate Applicants' Claims 1, 4, 5, 7, 8, 11, 14, and 16.

Rejection Under 35 U.S.C. 103(a)

Several claims have been rejected under 35 U.S.C. 103(a). Particularly, Claims 2 and 12 are rejected over *Rogers*; Claims 3 and 13 are rejected over *Rogers* in view of *Porper et al.*, USPN 6,138,310; Claims 1, 3-9, 11, and 13-17 are rejected over *Kressner*, USPN 5,289,604 (herein "*Kressner*") in view of *Rogers*; and Claims 2 and 12 are rejected over *Kressner* in view of *Rogers*.

Applicants respectfully traverse these rejections because the Patent and Trademark Office (herein, "PTO") failed to construct a *prima facie* case of obviousness. "During patent examination the PTO bears the initial burden of presenting a *prima facie* case of unpatentability. ... If the PTO fails to meet this burden, then the applicant is entitled to a patent." *In re Glaug*, 283 F.3d 1335, 1338, 62 YSOQ2d 1151, 1152-53 (Fed. Cir. 2002). To establish a *prima facie* case of obviousness under 35 U.S.C. §103, the PTO must meet three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest *all* the claim limitations. See, for example, *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991).

Particularly, because all of the rejections made under 103(a) depend on *Rogers* for elements (a threaded connection between a head and handle) which *Rogers* does not

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teach (as outlined above), the PTO has failed to teach or suggest all of Applicants' claimed limitations. Thus, the rejections made under 103(a) are improper.

CONCLUSION

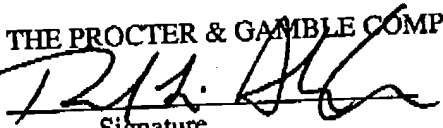
In light of the above remarks, it is requested that Examiner reconsider and withdraw the 35 U.S.C. §§112, 102(b), and 103(a) rejections. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-21 is respectfully requested.

Respectfully Submitted,

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By


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